

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:
JUSTIN VALENCIA, <i>on behalf of himself and all others</i>	:
<i>similarly situated,</i>	:
Plaintiff,	:
	24-CV-5627 (JMF)
	:
-v-	:
	<u>ORDER OF DISMISSAL</u>
	:
NORTH EAST TRADERS, INC.,	:
Defendant.	:
	:
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JESSE M. FURMAN, United States District Judge:

On September 16, 2024, the Court issued an Order to Show Cause requiring Plaintiff to show cause, in writing and filed on ECF, why the Court should not dismiss the case for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. *See* ECF No. 10. Plaintiff was granted an extension until October 4, 2024, to show cause and to file any default judgment motion. ECF No. 16. To date, Plaintiff has done neither.

The Supreme Court and the Second Circuit have long recognized that federal courts are vested with the authority to dismiss a plaintiff's action with prejudice because of his failure to prosecute, a power that is "necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts." *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-30 (1962); *see also United States ex rel. Drake v. Norden Sys., Inc.*, 375 F.3d 248, 250 (2d Cir. 2004).

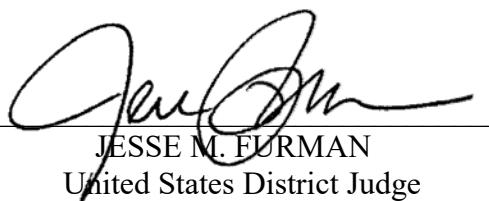
In this case, Plaintiff was on notice after the Court's August 30, 2024 Order that failure to comply with the Court's default judgment scheduling order — including the deadline for filing Plaintiff's default judgment motion, which passed weeks ago — could result in dismissal. ECF No. 8. Plaintiff was advised again on September 16, 2024, that "the Court will dismiss the case

without further notice" if Plaintiff failed to show cause in writing by September 23, 2024, ECF No. 10, which was extended to October 4, 2024, ECF No. 16. In light of Plaintiff's apparent total unwillingness to comply with the Court's Order to Show Cause, dismissal of the case is warranted.

Accordingly, it is hereby ORDERED that the case is dismissed without prejudice for failure to prosecute. The Clerk of Court is directed to close the case.

SO ORDERED.

Dated: October 8, 2024
New York, New York



JESSE M. FURMAN
United States District Judge